

**Introduced by Senator Leno**

February 24, 2012

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An act to amend Section 43.7 of the Civil Code, relating to personal rights.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1536, as introduced, Leno. Personal rights: liability.

Existing law governs personal rights and civil liability for violation of those rights. Existing law provides that there is no monetary liability on the part of, and no cause of action for damages against, specified health related professional societies and members of a duly appointed committee of a mental health professional quality assurance committee or medical specialty society, or any member of a duly appointed committee of a state or local health related professional society, or duly appointed member of a committee of a professional staff of a licensed hospital for an act performed within the scope of the functions of peer review, as provided.

This bill would make nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 43.7 of the Civil Code is amended to
- 2 read:
- 3 43.7. (a) There shall be no monetary liability on the part of,
- 4 and no cause of action for damages shall arise against, any member
- 5 of a duly appointed mental health professional quality assurance
- 6 committee that is established in compliance with Section 4070 of

1 the Welfare and Institutions Code, for any act or proceeding  
2 undertaken or performed within the scope of the functions of the  
3 committee which is formed to review and evaluate the adequacy,  
4 appropriateness, or effectiveness of the care and treatment planned  
5 for, or provided to, mental health patients in order to improve  
6 quality of care by mental health professionals if the committee  
7 member acts without malice, has made a reasonable effort to obtain  
8 the facts of the matter as to which he or she acts, and acts in  
9 reasonable belief that the action taken by him or her is warranted  
10 by the facts known to him or her after the reasonable effort to  
11 obtain facts.

12 (b) There shall be no monetary liability on the part of, and no  
13 cause of action for damages shall arise against, any professional  
14 society, any member of a duly appointed committee of a medical  
15 specialty society, or any member of a duly appointed committee  
16 of a state or local professional society, or duly appointed member  
17 of a committee of a professional staff of a licensed hospital  
18 (provided *that* the professional staff operates pursuant to written  
19 bylaws that have been approved by the governing board of the  
20 hospital), for any act or proceeding undertaken or performed within  
21 the scope of the functions of the committee ~~which~~ *that* is formed  
22 to maintain the professional standards of the society established  
23 by its bylaws, or any member of any peer review committee whose  
24 purpose is to review the quality of medical, dental, dietetic,  
25 chiropractic, optometric, acupuncture, psychotherapy, or veterinary  
26 services rendered by physicians and surgeons, dentists, dental  
27 hygienists, podiatrists, registered dietitians, chiropractors,  
28 optometrists, acupuncturists, veterinarians, marriage and family  
29 therapists, professional clinical counselors, or psychologists, which  
30 ~~committee~~ is composed chiefly of physicians and surgeons,  
31 dentists, dental hygienists, podiatrists, registered dietitians,  
32 chiropractors, optometrists, acupuncturists, veterinarians, marriage  
33 and family therapists, professional clinical counselors, or  
34 psychologists for any act or proceeding undertaken or performed  
35 in reviewing the quality of medical, dental, dietetic, chiropractic,  
36 optometric, acupuncture, psychotherapy, or veterinary services  
37 rendered by physicians and surgeons, dentists, dental hygienists,  
38 podiatrists, registered dietitians, chiropractors, optometrists,  
39 acupuncturists, veterinarians, marriage and family therapists,  
40 professional clinical counselors, or psychologists or any member

1 of the governing board of a hospital in reviewing the quality of  
2 medical services rendered by members of the staff if the  
3 professional society, committee, or board member acts without  
4 malice, has made a reasonable effort to obtain the facts of the  
5 matter as to which he, she, or it acts, and acts in reasonable belief  
6 that the action taken by him, her, or it is warranted by the facts  
7 known to him, her, or it after the reasonable effort to obtain facts.  
8 “Professional society” includes legal, medical, psychological,  
9 dental, dental hygiene, dietetic, accounting, optometric,  
10 acupuncture, podiatric, pharmaceutical, chiropractic, physical  
11 therapist, veterinary, licensed marriage and family therapy, licensed  
12 clinical social work, licensed professional clinical counselor, and  
13 engineering organizations having as members at least 25 percent  
14 of the eligible persons or licentiates in the geographic area served  
15 by the particular society. However, if the society has fewer than  
16 100 members, it shall have as members at least a majority of the  
17 eligible persons or licentiates in the geographic area served by the  
18 particular society.

19 “Medical specialty society” means an organization having as  
20 members at least 25 percent of the eligible physicians and surgeons  
21 within a given professionally recognized medical specialty in the  
22 geographic area served by the particular society.

23 (c) This section does not affect the official immunity of an  
24 officer or employee of a public corporation.

25 (d) There shall be no monetary liability on the part of, and no  
26 cause of action for damages shall arise against, any physician and  
27 surgeon, podiatrist, or chiropractor who is a member of an  
28 underwriting committee of an interindemnity or reciprocal or  
29 interinsurance exchange or mutual company for any act or  
30 proceeding undertaken or performed in evaluating physicians and  
31 surgeons, podiatrists, or chiropractors for the writing of  
32 professional liability insurance, or any act or proceeding undertaken  
33 or performed in evaluating physicians and surgeons for the writing  
34 of an interindemnity, reciprocal, or interinsurance contract as  
35 specified in Section 1280.7 of the Insurance Code, if the evaluating  
36 physician and surgeon, podiatrist, or chiropractor acts without  
37 malice, has made a reasonable effort to obtain the facts of the  
38 matter as to which he or she acts, and acts in reasonable belief that  
39 the action taken by him or her is warranted by the facts known to  
40 him or her after the reasonable effort to obtain the facts.

1 (e) This section shall not be construed to confer immunity from  
2 liability on any quality assurance committee established in  
3 compliance with Section 4070 of the Welfare and Institutions Code  
4 or hospital. In any case in which, but for the enactment of the  
5 preceding provisions of this section, a cause of action would arise  
6 against a quality assurance committee established in compliance  
7 with Section 4070 of the Welfare and Institutions Code or hospital,  
8 the cause of action shall exist as if the preceding provisions of this  
9 section had not been enacted.

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